

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF NEW YORK

3

UNITED STATES OF AMERICA

4 vs.

NOTICE OF MOTION
23-mj-05095

5 FRANK NOESON,
6 Defendant.
7

8 **PLEASE TAKE NOTICE**, that FRANK NOESON, by his attorney,
9 MARK J. BYRNE, ESQ., upon the annexed Affirmation and all the proceedings
10 and papers heretofore had herein, moves for the following relief:

- 11 1. Extension of the Rule 48(b) Dismissal Date by 30 days; and
- 12 2. Such further relief deemed just and proper by this Court.

13 Buffalo, New York

14 September 28, 2023

15 Respectfully Submitted,

16 /s/ Mark J. Byrne

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MARK J. BYRNE, ESQ.
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22

23 TO: AARON MANGO, AUSA.

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF NEW YORK
3 UNITED STATES OF AMERICA

4 vs.

AFFIRMATION

5 FRANK NOESON,
6 Defendant.

7 **MARK J. BYRNE, ESQ.**, an attorney at law, pursuant to 28 U.S.C.
8 §1746(2), declares the following under penalty of perjury:

9 1) I represent the Defendant, FRANK NOESON, in the above-entitled action
10 brought by the United States of America and as such am familiar with the facts
11 and circumstances of the case.

12 2) The Defendant appeared for an initial appearance on the Criminal
13 Complaint on April 28, 2023.

14 3) With the agreement of the parties, the Court scheduled to dismiss the
15 Complaint without prejudice pursuant to Rule 48(b) on July 28, 2023.

16 4) On July 25, 2023, your Affiant requested an adjournment of the Rule 48(b)
17 date, which the Court adjourned until August 30, 2023.

18 5) On August 28, 2023, your Affiant requested a second adjournment of the
19 Rule 48(b) date, which the Court adjourned until October 2, 2023.

20 6) The parties have continuously been engaged in plea negotiations.

21 7) I have met with the Defendant several times at my office and have been in
22 contact with the AUSA regarding potential plea proposals.

1 8) Recently, the parties have requested US Probation's insight on a guideline
2 matter.

3 9) The defense will need time to review the plea, and if acceptable, the parties
4 will apply to a District Court Judge for a date to enter a pre-indictment plea.

5 10) In order to accommodate the plea process, it is respectfully requested that
6 the Court extend the current 48(b) date by 30 days.

7 11) AUSA Aaron Mango has no objection to the relief requested in this motion.

8 12) It is agreed that any extension granted by the Court is excludable under the
9 Speedy Trial Act and Federal Rules of Criminal Procedure as it is in the interests
10 of the Defendant and the public to seek a pre-indictment resolution.

11 **WHEREFORE**, the Defendant respectfully requests that the Court issue an
12 ORDER granting the foregoing requested relief.

13 Buffalo, New York

14 September 28, 2023

15 Respectfully Submitted,

16 /s/ Mark J. Byrne

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